

App!. No. 09/580,233
Office Action mailed October 19, 2004
Response transmitted December 17, 2004

Attorney Docket No. 10022/15

REMARKS

1. Claims 1-27 are pending in the application. The Examiner has withdrawn the prior grounds for rejection under 35 U.S.C. § 101(a) and has new grounds of rejection under 35 U.S.C. § 103(a) and § 112, first paragraph, for failure to comply with the written description requirement.
2. The present Office Action has been made final and includes at least one new ground of rejection, under 35 U.S.C. § 112. This new ground of rejection was not necessitated by Applicants' amendment of claims or on information submitted in an Information Disclosure Statement. Therefore, it is improper to make the Office Action final. M.P.E.P. 706.07(a). The Examiner is requested to withdraw the finality of the present Office Action.
3. Claims 1 and 17 are rejected now for the first time under 35 U.S.C. § 112, first paragraph, on grounds of failing to comply with the written description requirement. The rejection states that the claims contain subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventors had possession of the application at the time of filing. In particular, the rejection states that Claim 1 lacks written description in the step of "estimating at least one potential revenue" because it is unclear what a cost estimator is or how a cost estimator has been formulated to model the estimating step. The rejection also states that it is unclear how to associate a potential revenue to a wireless application in order to facilitate cost estimation or to calculate a potential revenue (emphasis added). It is believed that this comment applies to Claims 1 and 17, although the rejection does not state the specific rejection for Claim 17. Applicants have amended Claims 1 and 17 in a non-narrowing manner to emphasize the importance of estimating, rather than other claim terms. The amendment overcomes the rejection.

As for the claim term of "associated with at least one wireless application," this term also concerns accounting, in light of the well-recognized cost accounting principle of matching revenue with costs in order to properly allocate costs and compute a profit. In order to associate a potential revenue with at least one wireless application, one simply estimates the expected revenue for the particular wireless application. Specification, p. 11, lines 15-25. The possible revenue streams for a particular wireless application may include advertising revenue, subscription revenue, air-time

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usage, and metered transmission of data packets. Specification, p. 11, lines 19-24. Each particular wireless application may thus be "associated" with one or more of these revenue streams. Specification, p. 11, lines 24-25. Accordingly, the specification describes to one of ordinary skill in the art how a potential revenue is associated with a wireless application, and the written description requirement of § 112 is satisfied.

The Examiner is respectfully requested to withdraw the rejection of Claims 1 and 17 under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement.

4. Claims 1-27 are rejected under 35 U.S.C. § 103(a) as being unpatentable in view of U.S. Pat. No. 5,189,608 to Richard Lyons et al. ("Lyons") in view of U.S. Pat. No. 6,064,984 to Mark Ferguson et al. ("Ferguson") and further in view of U.S. Pat. No. 6,298,123 to Thomas Nolting et al. ("Nolting"). Applicants traverse these rejections because, as explained in detail below, the references do not teach all the claimed limitations.

Claims 1 and 17

i. As to Claim 1, steps 2 and 3, the Office Action states that Lyons discloses accessing a reference database and most of the other limitations of Claim 1, and admits that Lyons does not disclose adjusting a standard adoption curve to obtain an adjusted adoption curve based on the accepted user-specific input. Office Action, p. 3, lines 15-16. The Office Action also states it is possible to derive an adjusted adoption curve from a standard or default curve, and that it would have been obvious to represent the results of an accepted user-specific input of a wireless communication service. No other reference is cited as disclosing this step, but the rejection then states that one would have been motivated to obtain an adjusted adoption curve in the wireless communication service in order to facilitate management decisions by using a graph. Office Action, p. 3, line 22, to p. 4, line 2.

Applicants traverse the rejection because the reference does not disclose all the limitations of at least these claim steps. Lyons is directed to financial analysis, and does not teach, describe or suggest wireless or other communications services. Lyons does not teach wireless service, or any other communications service, and thus cannot teach or suggest an "enhanced wireless communication service." Lyons also does not teach or suggest "a first set of cost data values

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associated with a wireless infrastructure deployment," or "a second set of cost data values associated with an operations maintenance cost for an enhanced wireless communication service." Lyons also does not teach accessing a revenue database that further includes a revenue data value associated with the existing wireless communication service." The reference teaches NONE of these limitations of steps 2 and 3 of Claim 1.

Lyons does not disclose a standard adoption curve for adoption of the enhanced wireless communication service, and does not disclose adjusting the standard adoption curve. Rather than disclosing an adoption curve, Lyons teaches accepting inputs relating to financial data that is organized into four classes or dimensions, e.g., Schedule, Entity, Period and Type (*see Table V* in Lyons). The rejection relies upon Lyons' disclosure of templates, which are not adoption curves but are standard accounting inputs (balance sheet, income statement, key statistics, *see Table VI*). Office Action, p. 3, lines 4-8. There is no disclosure of a standard adoption curve, or of anything that relates to potential revenue or costs of an enhanced wireless communication services.

ii. As to Claim 1, step 4, estimating a potential revenue, the Office Action admits that neither Lyons nor Ferguson teach estimating a potential revenue associated with at least one wireless application, but that Nolting does disclose these steps. Office Action, p. 4, lines 3-8. The rejection then states that it would have been obvious to combine the Nolting and Lyons in order to determine the risks of the business based on its costs and revenues. Office Action, p. 4, lines 10-12.

Applicants traverse the rejection at least on the grounds that the combined references do not disclose all the limitations of the claims. The rejection cites Nolting for teaching this "estimating" step, citing col. 5, line 23, to col. 7, line 2. These columns teach analysis of traffic patterns, but do not mention "wireless," revenue, or cost. Accordingly, the cited passages cannot teach or suggest steps involving estimating a potential revenue associated with at least one wireless application. The passages also do not teach or suggest using accepted user-specific input, or using first and second cost data values. These passages from Nolting also do not teach or suggest steps that involve adoption curves or adjusted adoption curves, because the passages from Nolting do not mention revenue, standard, adjusted, curve, or cost.

The rejection admits that Lyons and Ferguson do not teach the elements of the fourth step. Office Action, p. 4, lines 3-8 ("neither Lyons nor Ferguson discloses estimating at least one potential revenue . . ."). The rejection then states that Nolting discloses the elements of the fourth

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step, and that one would have been motivated to combine Lyons and Nolting in order to determine the risks of the business based on its costs and revenues. Office Action, p. 4, lines 10-12. Yet, the Office Action cites only Nolting for this step, using Nolting for the "wireless" and "business" aspects, and also relying on Nolting as teaching the financial analysis steps. Accordingly, Applicants are unsure which passages of Lyons are cited in rejecting the Claim 1 step of "estimating at least one potential revenue."

Nolting discusses communications traffic patterns, and as discussed above, teaches tracking and gathering data for tracking patterns, but does NOT disclose financial analysis. The passages cited in Nolting, col. 5, line 23 to col. 7, line 2, teach analysis of traffic patterns, but do not mention "wireless," or revenues, or costs. The references must teach or suggest all the limitations of the claimed invention, and the rejection admits that this step is not taught. Accordingly, the references do not teach or suggest at least steps 2-4 of Claim 1, or of claims depending from Claim 1, Claims 2-16.

iii. The elements of system Claim 17 are very similar to the steps of method Claim 1. The Claim 17 "storage device" includes limitations very similar to those of Claim 1, step 2, including general market data for an enhanced wireless communication service, a standard adoption curve, and a reference database that includes first and second cost data as discussed above for Claim 1. The Claim 17 "application tailoring module" has limitations similar to those of Claim 1, step 3, for modifying the standard adoption curve to obtain an adjusted adoption curve. Finally, the Claim 17 "estimator" for performing financial analysis has limitations similar to those of the Claim 1 step of estimating, including a revenue estimator and a cost estimator.

By the same arguments above for Claim 1, these limitations of Claim 17 are not taught or suggested in the references. Accordingly, Claims 1 and 17 are not obvious over the references, nor are dependent Claims 2-16 and 18-27. Nevertheless, as noted above in the discussion of 35 U.S.C. § 112, first paragraph, Claims 1 and 17 have been amended in a non-narrowing manner in order to make it clear that it is the steps of estimating that are claimed, rather than any particular revenue or cost estimator. The Examiner is respectfully requested to withdraw rejections of Claims 1-27 and to allow the claims.

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Claims 2 and 18

Claims 2 and 18 are rejected over all three references, the Office Action admitting that the references "do not explicitly disclose an adjusting step comprising adjusting the standard adoption curve based" on certain user inputs. Office Action, p. 5, lines 4-7. The rejection then states that official notice is taken that many aspects of the method of using technology adoption curves for the enhanced wireless communication service are old and well known within the finance arts. Office Action, p. 5, lines 7-10.

Applicants traverse the rejection, and also, per M.P.E.P. 2144.03, traverse the assertion concerning adjusting the standard adoption curve of the enhanced wireless communication service. The rejection admits that the step of Claim 2 (and thus the application tailoring module of Claim 18) is not disclosed in the references. Therefore, the only basis for the rejection is the assertion that the step is well known. As discussed above with reference to Claim 1, the references do not describe or suggest a standard adoption curve, since the cited passages only refer to templates or standard accounting inputs (such as balance sheet, income statement, and the like), and do not suggest a potential revenue or a cost estimator or model for providing a financial analysis for an enhanced wireless communication service.

In particular, the references do not disclose estimating a potential revenue, an adjusting step, a standard adoption curve, or an adjusted adoption curve based on any user-specific input. Applicants also traverse the assertion in the rejection that

Official notice is taken that adjust the standard adoption curve based on a user input of a selected geographic region from a library of regions and a selected application from a library of applications of the enhanced wireless communications service are old and well known within the finance art.

Office Action, p. 5, lines 7-10. Enhanced wireless communications services, as discussed in the present application means new services. See application, p. 4, lines 6-9, stating that the financial analysis applies to "a new or expanded offering of enhanced wireless data services." Thus, it is not possible for a "library of applications of the enhanced wireless communications service" to be old and well known within finance arts.

As noted in the application, an "adoption curve" is not simply an accounting artifact, but is "a measure of consumer demand and acceptance of a new technology." Specification, p. 12, lines

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11-12. That is, a technology adoption curve, as shown in Figs. 3A, 3B and 3C, is a measure of how quickly a new technology is adopted, compared to the total number of customers and the capacity of the new technology. These curves relate to technology, not to finance arts. The assertion that a library of applications of an enhanced wireless communications service is old and well known within the finance art is thus overcome.

While selecting data from a library of different regions may be well-known, it is NOT old and well known to use regional cost data in adjusting a technology adoption curve as recited in Claims 2 and 18, at least because the references do not disclose adoption curves. Using the "technology adoption curve" of the present reference is hindsight and is improper. The Examiner is requested to provide evidence supporting the Official Notice or to withdraw rejections of Claims 2 and 18.

Claims 3 and 19

Claims 3 and 19 are rejected over all three references, the rejection admitting that the references do not disclose the limitations of Claims 3 and 19. Office Action, p. 5, lines 15-18. The rejection takes official notice that the steps of these claims are old and well-known in the finance art, and that therefore it would have been obvious to adjust the slope based on user inputs from a specific geographic region. Office Action, p. 5, lines 18-21. Applicants traverse the rejection and also, under M.P.E.P. 2144.03, traverse the assertion that it is old and well-known to change a slope of an adjusting curve as claimed in a method of providing a financial analysis for an enhanced wireless communication service.

As noted above in the discussion for Claims 2 and 18, the prior art does not teach or suggest a library of regions or a library of applications, nor does the prior art teach standard or adjusted technology adoption curves. Stating that these steps and features are old and well-known in the finance art does not make sense, because these curves or charts relate to technology adoption, not finance or financial analysis per se. The assertion is thus overcome.

In addition, using Applicants' disclosure of technology adoption curves in this manner constitutes inadmissible hindsight. The Examiner is requested to provide evidence supporting the Official Notice or to withdraw rejections of Claims 3 and 19.

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Claims 4-7, 11, 20-23, and 27

Claims 4-7, 11, 20-23, and 27 are also rejected over all three references, the rejections admitting in each case that the references do not disclose the claimed limitations. See Office Action, p. 6, lines 2-5, and 10-14; p. 6, line 19, to p. 7, line 1; p. 7, lines 5-8; and p. 8, lines 14-18. The rejection then states, in each case, that the particular limitation of the claim is old and well known in the art, and takes official notice thereof. By the same arguments above for Claims 2, 3, 18 and 19, Applicants traverse the rejections, and also traverse the assertions that the limitations of Claims 4-7, 11, 20-23, and 27 are old and well known in finance arts.

Many elements of cost accounting are indeed old and well-known (just as many inventions are combinations of parts that are well-known), but Claims 2-7, 11, 18-23, and 27 use these elements in a new method or system for providing financial analysis for an enhanced wireless communication service, and in particular in a step of adjusting a standard adoption curve based on user-accepted input. As discussed above with reference to Claim 1, it is not at all clear, from what is old and well-known in the finance arts, what constitutes a user-accepted input, or what constitutes a standard adoption curve, which is not cited in the references.

In particular, for Claims 4, 7, 20, and 23, the rejection provides no basis whatever for an "old and well-known" saturation point in finance arts. To "saturate" is defined as "to fill completely" or "to load to capacity." Merriam-Webster's Collegiate Dictionary, 10th ed. at 1038. The term "saturation point" is used in this sense in the present application, meaning that the new service is adopted by numerous customers and the equipment reaches its capacity or saturation point more or less quickly, depending on whether the service is offered in a more or less affluent region. Specification, p. 16, lines 8-13, and Fig. 3B, referencing "saturation point" 57. Saturation point thus refers to a high volume of telephone calls or other telecommunication service, and does not refer to any term in finance arts. The assertion is thus overcome. Accordingly, the Examiner is requested to provide evidence supporting the Official Notice or to withdraw rejections of Claims 4, 7, 20 and 23.

As to Claims 5-6 and 21-22, it is known that prices may be adjusted, and it is known that a more affluent region will have greater revenue potential and that a less affluent region will have a lesser revenue potential. However, it is not obvious to use the particular method claimed,

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i.e., adjusting a technology adoption curve in order to improve the estimate for potential revenue from an enhanced wireless communications service. As noted above, Applicants' technology adoption curves relate to technology, not finance. Therefore, it is not well known in the finance arts to use technology adoption curves to improve estimates. The assertion is thus overcome. In order to make out a *prima facie* case of obviousness, the prior art must show teach or suggest each limitation of the claimed invention. M.P.E.P. 2143.03 at 2100-133. The Examiner is requested to provide evidence supporting the Official Notice or to withdraw rejections of Claims 5-6 and 21-22.

As for Claims 11 and 27, the rejection admits that a step of presenting a graphical depiction is not disclosed in the references, but that it would have been obvious to provide a graphical depiction of revenue by one or more graphs of market segment, cash-flow projection, and so forth. Applicants have not invented charts or graphs per se, but have invented a method (and a system) for providing a financial analysis for an enhanced wireless communication service, including a step of presenting a graphical depiction of the financial analysis. Claims 11 and 27 are therefore allowable at least because Claim 1 and Claim 17 are allowable.

Per the discussion above for Claim 1, the references do not teach or suggest a standard adoption curve, nor do they teach or suggest adjusting a standard adoption curve. As already noted, the rejection for each of Claims 4-7, 11, 20-23, and 27, admits that the prior art does not teach or suggest the claimed method or system. As noted above, Applicants' technology adoption curves relate to technology, not finance. Therefore, it is not well known in the finance arts to use technology adoption curves to improve estimates. Accordingly, it is not old and well-known in the finance arts to use these particular steps or parts of Claims 4-7, 11, 20-23, and 27 in the claimed method or system for adjusting a standard adoption curve as part of providing an estimate for potential revenue from an enhanced wireless communication service. Accordingly, the references do not teach the limitations of Claims 4-7, 11, 20-23, and 27. As shown with reference to "adoption curves," "adjusting adoption curves," "changing a slope of an adoption curve," or "changing a saturation point," the limitations of these claims are not old and well-known in the finance arts. The Examiner is respectfully requested to provide evidence supporting the Official Notice or to withdraw rejections of Claims 4-7, 11, 20-23, and 27, or to withdraw the rejections.

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Claims 8 and 24

Claims 8 and 24 are rejected over all three references, the rejection admitting that the references do not teach or suggest the step and feature of Claims 8 and 24 of assigning a first level security for a user with respect to the presenting step and the accepting step, and assigning a second level of security higher than the first level of security with respect to the user being capable of modifying the contents of the reference database. Office Action, p. 7, lines 13-17. The office action then takes "official notice" that these steps and features are old and well-known within the finance arts, and that it would have been obvious to use these steps and features to increase system security.

Applicants traverse the rejection and also traverse the Examiner's assertion that this step or feature is old and well known in the finance arts. The claim limitations refer to computer security independent of finance arts, while the assertion relates to finance arts. The assertion provides no rationale as to why a different level of security is needed for the steps of presenting and accepting, in contrast to the user's being capable of modifying the contents of a reference database.

Accordingly, the Examiner is respectfully requested to provide evidence supporting the Official Notice or to withdraw rejections of Claims 8 and 24.

Claims 9 and 25

Dependent Claims 9 and 25 are also rejected over all three references, the rejections stating that Nolting discloses the particular limitations of these dependent claims. In particular, the rejection for Claims 9 and 25 states that Nolting discloses a revenue estimator that generates an estimated cost value as a function of a geographic region based on the accepted user input and the adjusted adoption curve. The rejection cites several passages of Nolting for these disclosures.

Applicants traverse these rejections because upon closer inspection, these passages do not teach or suggest ANYTHING related to costs or revenues. The passages, instead, concern mobile switching centers and private networks (col. 2, line 56, to col. 3 line 12); local exchange carriers and operations monitoring (col. 3, lines 50-58); monitoring interconnect traffic (col. 8, line 64, to col. 9, line 12); and compiling information for calls exceeding a given threshold, such as calls with a long hold time (col. 13, lines 30- 43). Accordingly, the references do not teach or suggest the revenue limitations of Claims 9 and 25, which are therefore allowable.

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Claims 10 and 26

The rejection for Claims 10 and 26 states that Nolting discloses a cost estimator that generates an estimated cost value as a function of a geographic region based on the accepted user input and the adjusted adoption curve. The rejection cites several passages of Nolting for these disclosures, and states that it would have been obvious to use these steps and features in order to adjust the objectives to the geographic region characteristic.

This rejection is traversed because upon closer inspection, these passages do not teach or suggest ANYTHING related to costs or revenues. The passages, instead, concern mobile switching centers and private networks (col. 2, line 56, to col. 3 line 12); local exchange carriers and operations monitoring (col. 3, lines 50-58); monitoring interconnect traffic (col. 8, line 64, to col. 9, line 12); real-time monitoring and taking corrective action, and data acquisition of network traffic (col. 4, lines 1-6 and 31-38); and compiling information for traffic pattern analysis (col. 12, line 55, to col. 13, line 43). Accordingly, the references do not teach or suggest the costing limitations of Claims 10 and 26, which are therefore allowable. Claims 25 and 26 have been amended for proper antecedent basis with amended Claim 17.

5. Applicants thank the Examiner for withdrawing previous rejections. Applicants request the Examiner to withdraw the present rejections and to advance the application to allowance, or at least to withdraw the finality of the present Office Action. The Examiner is respectfully requested to telephone the below-listed attorney at 312-321-4200 if such communication would expedite this application or would be helpful to the Examiner.

Respectfully submitted,

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